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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/604,008	06/20/2003	Steven J. Berry	71501-0002	1007
20915	7590	07/30/2004		
MCGARRY BAIR PC 171 MONROE AVENUE, N.W. SUITE 600 GRAND RAPIDS, MI 49503			EXAMINER STERLING, AMY JO	
			ART UNIT	PAPER NUMBER
			3632	

DATE MAILED: 07/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/604,008

Applicant(s)

BERRY ET AL.

Examiner

Amy J. Sterling

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) 12, 13, 16, 28, 29 and 32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11, 14, 15, 17-27, 30 and 31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is the first Office Action for application number 10/604,008, Gas Cylinder Base, filed on 6/20/03. Claims 1-32 are pending. This application claims priority to provisional application 60/398,202 dated 7/24/02.

Election/Restrictions

Claims 12, 13, 16, 28, 29 and 32 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species. Applicant timely traversed the restriction (election) requirement in the reply filed on 5/26/04.

Applicant's election with traverse of the Election of Species in the reply filed on 5/26/04 is acknowledged. The traversal is on the ground(s) that each embodiment shows at least one fastener for attaching the gas cylinder base to the gas cylinder. This is not found persuasive because each Species I is distinguished from Species III in that the fastening system of Species I is inserted into the gas cylinder and the fastening system of Species III does not include an insertion into the gas cylinder. Species II includes a base that is structurally different from Species I and Species III in that it includes cut-away portions and would not necessarily be obvious from the teaching of a solid ring. The requirement is still deemed proper and is therefore made FINAL.

Information Disclosure Statement

The information disclosure statement submitted on 6/20/04 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement has been considered by the examiner.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In Claim 9, line 2, "the base ring" is recited as a positive limitation, yet the gas cylinder has not been positively recited in the claim or the previous claims from which claim 9 depends. The claim was examined as if the gas cylinder was intended to be positively claimed.

Claim Rejections - 35 USC § 102

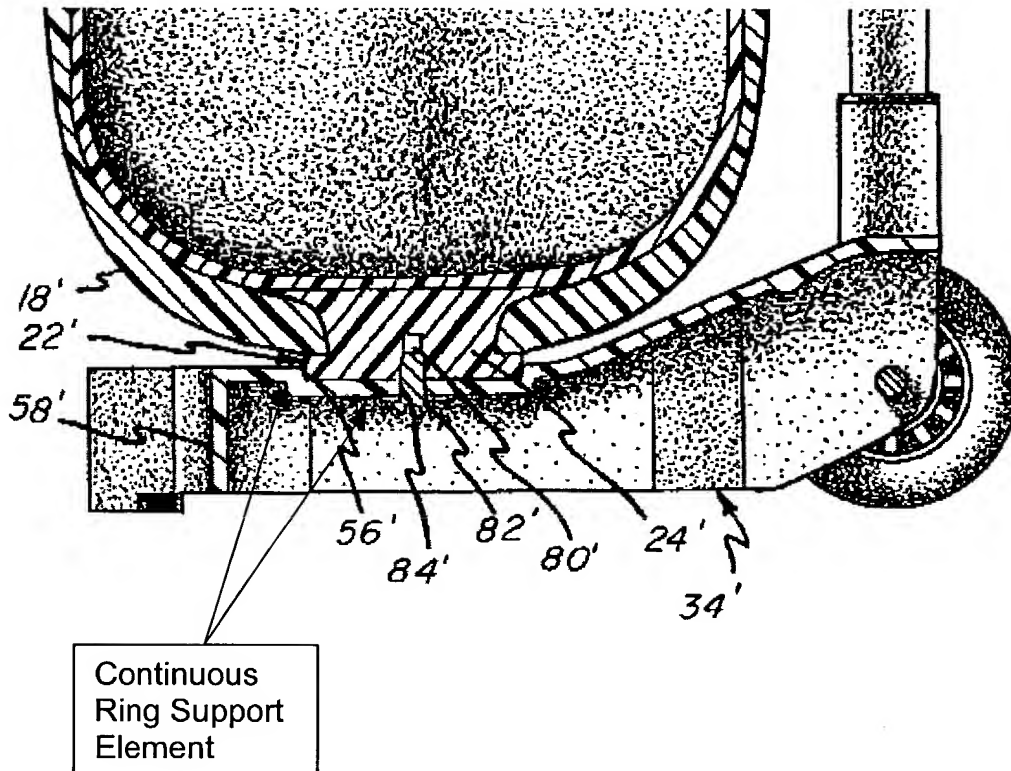
The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 7-10, 17-21 and 23-26 are rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent No. 6508477 to Burkett to the embodiment shown by Figs. 6-9.

The patent to Burkett discloses a gas cylinder (14'), the cylinder having a base ring (22', 24') with a threaded aperture therethrough (80'), the base having a base skirt (42'), having a first lateral dimension, which is greater than the diameter of the cylinder (14') and a continuous ring support element (See Drawing Below), the support element which extends upwardly from the base skirt and which defines a second lateral dimension less than the first lateral dimension and a threaded fastener (82') inserted in a threaded aperture (84') therethrough in the support element and in the threaded aperture (80') of the base ring (22' 24') of the cylinder, for attaching the gas cylinder to the base by engaging the base ring of the cylinder, the fastener (82') having a point at an end which engages the base ring (22', 24').



Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11, 14, 15, 27, 30 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent No. 6508477 to Burkett as applied to claims 1, 10, 17 and 26 above, referencing the embodiment taught in Figs. 1-5.

The embodiment above taught by Burkett in Figs. (6-9) does not specifically teach that the support ring terminates in a radially inwardly sloped chamfered end, or that the base skirt is circular and coaxial with the support element.

Burkett in a different embodiment (Figs. 1-5) shows these elements. Burkett shows a gas circular cylinder base (54) which has a support ring (upper part of 26) which terminates in a radially inwardly sloped chamfered end (chamfered meaning beveled or inclined or slanted from Webster's Dictionary), the support ring having a circular base skirt (lower part of 26) which is coaxial with the support element. These elements are used to support the gas cylinder and are an obvious rendition of the above embodiment. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made from the teachings of the alternative embodiment taught by Burkett to have made the gas base circular and coaxial, with a chamfered edge for further support of the gas cylinder.

Claims 6 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent No. 6508477 to Burkett as applied to claims 1, 3-5, 17, 19-21 above and further in view of United States Patent No. 6709222 to Inman, Jr.

Burkett shows the basic inventive features with the exception that it does not show that the screw is a thumb screw.

Inman, Jr. shows a gas cylinder support device with a support element (22) which has thumb screws (54) which are used to further support the gas cylinder. Therefore, it would have been obvious to one having ordinary skill in the art at the time

the invention was made from the teachings of Inman, Jr. to have added thumb screws in order to further support the gas cylinder.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following documents show various supporting bases.

2003/0164167 to Van Vleet

6729493 to Chen

6702244 to Bock

6076546 to Waters

6299124 to Reback et al.

5893547 to Cohen, Jr.

5186350 to McBride

3163159 to Buehl et al.

3042350 to Lencioni

2978215 TO Shanok et al.

2905414 to Zierden

2847175 to Farley et al.

2674147 to Franklin

D287476 to Craft et al.

Any inquiry concerning this communication should be directed to Amy J. Sterling at telephone number 703-308-3271. The examiner can normally be reached (M-F 8 a.m.-5:00 p.m.). If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Leslie Braun can be reached at 703-308-2156. The fax machine number for the Technology center is 703-872-9306 (formal amendments) or 703-308-3519 (informal amendments/communications).

Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center receptionist at 703-308-2168.



AJS
Amy J. Sterling
7/13/04



ANITA KING
PRIMARY EXAMINER